

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

CUSTOMS AND TAX ADMINISTRATION  
OF THE KINGDOM OF DENMARK  
(SKATTEFORVALTNINGEN) TAX  
REFUND SCHEME LITIGATION,

This document relates to 1:18-cv-05053-LAK

MASTER DOCKET

Case No. 1:18-md-02865-LAK

**DECLARATION OF KRISTEN G. NIVEN IN SUPPORT OF THIRD-PARTY  
DEFENDANT ED&F MAN CAPITAL MARKETS LIMITED'S MOTION TO DISMISS  
THE THIRD-PARTY COMPLAINT**

Kristen G. Niven, an attorney duly admitted to practice in the State of New and in the Southern District of New York, hereby declares, under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am an associate of the law firm Akerman, LLP, attorneys for Third-Party Defendant ED&F Man Capital Markets, Ltd. ("ED&F Man") in the above-captioned action. The facts stated in this declaration are known to me personally or are based on information provided in the annexed exhibits.
2. I submit this declaration in support of ED&F Man's motion to dismiss the Third-Party Complaint of Defendants-Third-Party Plaintiffs the Goldstein Law Group PC 401(K) Profit Sharing Plan (the "Goldstein Plan") and Sheldon Goldstein ("Goldstein" and collectively with the Goldstein Plan, the "Goldstein Defendants").
3. A true and correct copy of The Goldstein Defendants' Amended Answer, Affirmative Defenses, and Counterclaims against Skatteforvaltningen and Third-Party Complaint against ED&F Man, dated April 23, 2019, is annexed hereto as Exhibit "A."

4. A true and correct copy of the Waiver of the Service of Summons of ED&F Man dated May 8, 2019, and filed in this action on May 22, 2019, is annexed hereto as Exhibit “B.”
5. A true and correct copy of the application form dated March 23, 2012, completed and signed by Goldstein on behalf of the Goldstein Plan (the “Application Agreement”), is annexed hereto as Exhibit “C.”
6. A true and correct copy of the Power of Attorney dated March 23, 2012, signed by Goldstein on behalf of the Goldstein Plan in favor of Acer Investment Group, LLC (the “Power of Attorney”), is annexed hereto as Exhibit “D.”
7. A true and correct copy of the Custody Agreement dated June 21, 2012, signed by Goldstein on behalf of the Goldstein Plan (the “Custody Agreement”), is annexed hereto as Exhibit “E.”
8. A true and correct copy of a cover letter enclosing the Terms and Conditions of Business for ED&F Man with a confirmation of election statement required under the then United Kingdom Financial Services Authority (“FSA”) Rules, signed by Goldstein on April 18, 2012 (the “Cover Letter”), is annexed hereto as Exhibit “F.”
9. A true and correct copy of the Terms and Conditions of Business for ED&F Man in effect at the time of the execution of the Application Agreement, with Variations thereto signed by Goldstein (the “Terms”), is annexed hereto as Exhibit “G.”
10. A true and correct copy of: (i) the Particulars of Claim in SKAT v. Solo Capital Partners LLP & Others, [2018] EWHC (Comm), Claim No’s. CL-2018-000297; CL-2018-000404; CL-2018-000590 (Eng.), dated September 24, 2018, together with Schedule 5T thereto; (ii) the amended Particulars of Claim and Schedule 5T dated January 16, 2019; and (iii) the re-amended Particulars of Claim dated July 30, 2019, are collectively annexed hereto as Exhibit “H.”

11. A true and correct copy of the Defence of the 69<sup>th</sup> Defendant ED&F Man Capital Markets Limited to the Consolidated Claims in SKAT v. Solo Capital Partners LLP & Others, together with Annexes A-D thereto, is collectively annexed hereto as Exhibit “I.”

I, KRISTEN G. NIVEN, hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: August 5, 2019  
New York, New York

/s/ Kristen G. Niven  
Kristen G. Niven